

LOTTO ACT 1981.

(No. 102 of 1981.)

ARRANGEMENT.

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LOTTO.

No. 102 of 1981.

AN ACT to provide for the conduct of games of lotto by the Lotteries Commission, to validate the conduct of certain games of lotto by the Lotteries Commission, and to provide for matters incidental to or connected with the foregoing.

[Assented to 2 December 1981.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Lotto Act 1981*. Short title.
2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

Interpreta-
tion.

3. (1) In this Act, unless the contrary intention appears—

“charitable purpose” means charitable purpose as defined by the Lotteries (Control) Act 1954;

“conduct”, in relation to games of lotto, includes promote, organize and operate;

“designated authority”, in relation to—

(a) the State of Queensland, means Golden Casket Art Union Office constituted by the Golden Casket Art Union Act 1978, as from time to time amended, of the State of Queensland;

(b) the State of South Australia, means Lotteries Commission of South Australia constituted by the State Lotteries Act 1966, as from time to time amended, of the State of South Australia;

(c) the State of Victoria, means trustees of the will and estate of the late George Adams carrying on business in Melbourne under the name or style of Tattersall Sweep Consultation Care of George Adams;

(d) another State (other than a State referred to in paragraph (a), (b), or (c)), or a Territory, of the Commonwealth, means body or person designated under subsection (2);

“entry form”, in relation to a game of lotto, means entry form or coupon required by the rules to enable a person to enter or subscribe to the game of lotto;

“illegal game of lotto” means game of lotto in respect of which a permit has not been granted;

“paragraph” means paragraph of the definition, section or subsection in which the term is used;

- “permit” means permit granted under section 5;
- “permitted game of lotto” means game of lotto in respect of which a permit has been granted;
- “section” means section of this Act;
- “subsection” means subsection of the section in which the term appears;
- “subscriber”, in relation to a game of lotto, means person whose name appears on the face of an entry form in the space provided for the purpose;
- “subscription” means entry fee payable by a subscriber under the rules to enable him to participate in a game of lotto, exclusive of any fee payable to an agent employed by the Commission;
- “the Commission” means the Lotteries Commission constituted by section 5 of the Lotteries (Control) Act 1954;
- “the rules” means the rules made under section 4.

(2) The Minister may, for the purposes of paragraph (d) of the definition of “designated authority” in subsection (1), designate by notice published in the *Gazette* a body or person in relation to another State (other than a State referred to in paragraph (a), (b) or (c) of that definition), or a Territory, of the Commonwealth.

(3) In this Act, a reference to a game of lotto is a reference to a form of game in which the subscribers to the game choose or attempt to forecast or select, from a group of numbers, a smaller group of numbers to be drawn on a random basis.

PART II.—CONDUCT OF GAMES OF LOTTO.

4. (1) The Commission may, subject to this Act, conduct games of lotto in order to raise money for charitable purposes.

Powers of
Lotteries
Commission
in relation
to games of
lotto.

(2) For the purpose of conducting games of lotto under subsection (1), the Commission may, with the approval in writing of the Minister—

- (a) make agreements with the designated authorities of other States, or of Territories, of the Commonwealth for the joint conduct with those designated authorities of games of lotto; and
- (b) conduct games of lotto jointly with the designated authorities referred to in paragraph (a) in accordance with agreements made under this subsection.

(3) The Commission may make rules relating to the conduct by itself of games of lotto.

(4) Without prejudice to the operation of the other provisions of the Interpretation Act 1918, section 36 of that Act applies to rules made under subsection (3).

Applications
by Commission
to
conduct
games of
lotto.

5. (1) When the Commission desires to conduct a game of lotto, it shall, not less than 14 days before so doing, apply to the Minister for a permit to do so.

(2) The chairman or secretary of the Commission shall sign an application under subsection (1), which application shall state in respect of the game of lotto to which it relates—

- (a) the price of each subscription;
- (b) the percentage of the total amount of subscriptions received by the Commission to be distributed as prize money; and
- (c) such particulars, other than those referred to in paragraphs (a) and (b), as may be prescribed.

(3) On receiving an application under subsection (1), the Minister may, subject to such conditions as he thinks fit to impose, grant or refuse to grant the permit applied for.

6. (1) The Commission shall, in respect of all games of lotto for which permits have been granted to it—

Duties of Commission in respect of games of lotto conducted by it.

- (a) conduct those games of lotto in accordance with this Act and with such conditions as are imposed on the grant of those permits;
- (b) keep accurate accounts and records of the receipt and disposal of all property received and disposed of by it in connection with those games of lotto;
- (c) at all times keep all accounts, books, documents, papers and other records relating to those games of lotto at the office of the Commission so as to be readily accessible for audit under this Act;
- (d) pay into the separate bank account referred to in section 9 (1) (d) of the Lotteries (Control) Act 1954 all moneys received by the Commission in respect of those games of lotto and make all disbursements, except petty disbursements, by cheques drawn on that bank account;
- (e) ensure that the total expenses of conducting games of lotto in any one year, including commissions payable on subscriptions and the allowances and remuneration of the members of the Commission, shall not in that year exceed 25 per cent of the gross amount received from subscriptions.

(2) The Commission shall during each year at such intervals as the Treasurer directs pay into the special account (kept at the Treasury under section 3 (2) of the Hospital Fund Act 1930) 20 per cent of all moneys received by the Commission during that year in respect of games of lotto conducted by it under this Act.

(3) The Commission shall pay into a special bank account in its name or invest in its name in investments authorized by law as investments in which trust funds may be invested—

(a) the balance remaining after—

(i) deduction from the gross amount referred to in paragraph (e) of subsection (1) of the total expenses referred to in that paragraph; and

(ii) payment of the prize moneys and the moneys required to be paid into the special account referred to in subsection (2);

and

(b) the amount of any unclaimed prizes and all other moneys received by the Commission under this Act.

(4) The Commission may from time to time with the approval in writing of the Minister apply the amounts standing to the credit of the special bank account referred to in subsection (3) to any charitable purpose or in the acquisition, purchase, maintenance or improvement of lands and buildings for the purposes of this Act.

Payment of prizes.

7. (1) The Commission shall not distribute prizes won in games of lotto conducted by it under this Act otherwise than by cheque or in the form of cash.

(2) The Commission may pay out the prize money payable in respect of a prize winning entry form on receipt of that entry form—

(a) validated in accordance with the rules; and

(b) purporting to be endorsed with his signature and address by the person purporting to be the subscriber in respect of that entry form,

but, if that entry form is alleged by the person referred to in paragraph (b) to have been lost or destroyed, the Commission may, on being satisfied by a statutory declaration or other declaration conforming with, and valid under, the law of the place where it is made, that that person was the subscriber concerned and that that entry form is lost or destroyed, pay to that person the prize money in respect of that entry form.

(3) The Commission is not obliged to satisfy itself that the person purporting to be the subscriber in respect of a prize winning entry form is the lawful subscriber in respect thereof, that the signature on a prize winning entry form is genuine or that the subscriber in respect of a prize winning entry form is not an infant or a person under other legal disability.

(4) Notwithstanding any law to the contrary, whether relating to infants or to persons under other legal disability or otherwise, payment of prize money by the Commission under this section constitutes full satisfaction by, and a full and valid discharge to, the Commission.

PART III.—GENERAL.

8. (1) The Auditor General shall make a continuous audit of, and report to the Minister from month to month on, the affairs of the game of lotto or games of lotto conducted or in the course of being conducted by the Commission during the monthly period to which that report relates.

Accounts
and audits
in
connection
with games
of lotto
conducted
by
Commission.

(2) The Minister shall cause each monthly report made by the Auditor General under subsection (1) to be tabled in each House of Parliament—

- (a) if Parliament is in session when that report is received by the Minister, within 14 days after that receipt; or
- (b) if Parliament is not in session when that report is received by the Minister, within 14 days after the commencement of the next session of Parliament.

(3) The Commission shall at the end of each month furnish to the Minister a true and accurate account of the receipt and disposal of all property in the conduct of the games of lotto conducted by it during the immediately preceding month, together with a certificate of the Auditor General certifying whether or not this Act and the conditions of the permits granted in respect of those games of lotto have been complied with in respect of those games of lotto and, if there has been no such compliance, drawing attention to any details of non-compliance.

(4) The Minister shall cause one copy of each account and accompanying certificate furnished by the Commission under subsection (3) to be tabled in each House of Parliament—

- (a) if Parliament is in session when that account and certificate are received, by the Minister within 30 days after that receipt; or
- (b) if Parliament is not in session when that account and certificate are received by the Minister, within 30 days after the commencement of the next session of Parliament.

(5) The Commission shall at the end of each year present to each House of Parliament a schedule setting out the names of all organisations and charities to which money has been granted, and the amounts given in each case, during that year.

Warrants.

9. If a member of the Police Force has reason to suspect that an illegal game of lotto is being carried on at any place, he may make complaint on oath accordingly to a justice of the peace, who may issue his warrant authorizing the member of the Police Force—

- (a) to enter with such assistance as may be found necessary, and also, if necessary, to break into, any place where the illegal game of lotto is being, or is supposed to be, conducted, or any premises where any moneys, securities, papers, documents,

records or things pertaining to the carrying on of the illegal game of lotto are supposed to be; and

- (b) to seize and take possession of all moneys, securities, papers, documents, records and things used in connection with or relating to the illegal game of lotto.

10. (1) Notwithstanding anything in the provisions of The Criminal Code or of the Police Act 1892, a person is not subject to any penal consequences under those provisions by reason only of being a subscriber in, or conducting, a permitted game of lotto or carrying out in relation to the conduct of a permitted game of lotto any duties or functions prescribed by the rules.

Indemnity.

(2) Subject to this Act, nothing in subsection (1) affects the provisions of The Criminal Code or of the Police Act 1892 relating to lotteries and illegal gaming.

11. (1) A person who—

Offences.

- (a) conducts an illegal game of lotto commits an indictable offence and is liable—
 - (i) on conviction on indictment to imprisonment for a term not exceeding 3 years; or
 - (ii) if he admits that he is guilty of the indictable offence and it appears to the court before which he appears that the nature of the indictable offence is such that he may be adequately punished on summary conviction, on summary conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding 6 months;

or

- (b) hinders a member of the Police Force in the exercise of any of the powers conferred by a warrant issued under section 9 commits a simple offence and is liable on conviction to a fine not exceeding \$100.

(2) When a person has been summarily convicted of the indictable offence referred to in subsection (1) (a), that conviction shall be deemed to be a conviction of a simple offence only and not of an indictable offence.

Regulations.

12. The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act and, in particular—

- (a) providing for the disposal of unclaimed prizes;
- (b) providing for the forfeiture or disposal of moneys, securities, papers, documents and things seized by a police officer under a warrant issued under section 9;
- (c) prescribing the conditions governing the employment of agents by the Commission and providing that a decision made by the Commission thereunder shall be final and without an appeal to any person whatsoever other than the Commission; and
- (d) creating offences against those regulations and fixing penalties not exceeding \$200 for those offences.

Validation.

13. (1) The conduct of games of lotto by the Commission during the period commencing on 1 January 1979 and ending immediately before the

coming into operation of this Act and any act forming part of, or ancillary or incidental to, that conduct done by the Minister or by the Auditor General or by the Commission or any member, servant or agent thereof or by a subscriber or by a member of the Police Force during that period shall be deemed to be, and always to have been, lawful.

(2) The October agreement and the June agreement shall be deemed to have been lawfully made under section 4 and any act done under—

- (a) the October agreement by the Minister or by the Auditor General or by the Commission or any member, servant or agent thereof or by a subscriber or by a member of the Police Force during the period commencing on 9 October 1980; or
- (b) the June agreement by the Minister or by the Auditor General or by the Commission or any member, servant or agent thereof or by a subscriber or by a member of the Police Force during the period commencing on 24 June 1981,

and ending immediately before the coming into operation of this Act shall be deemed to have been done lawfully.

(3) In this section—

“agent” means agent employed under regulations in force under the Lotteries (Control) Act 1954;

“the June agreement” means the agreement made on 24 June 1981 between—

- (a) the Commission; and
- (b) the designated authorities of the States of Queensland, South Australia and Victoria,

for the purposes of enabling the designated authority of the State of Queensland to join with the parties to the October agreement in the conduct of games of lotto on a joint basis and of amending the October agreement accordingly;

“the October agreement” means the agreement made on 9 October 1980 between—

- (a) the Commission; and
- (b) the designated authorities of the States of South Australia and Victoria,

for the purpose of joining with each other in the conduct of games of lotto on a joint basis.
